APOTEX
ADVANCING GENERICS

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Chairwoman Edith Ramirez
The Federal Trade Commission
Room H-113 (Annex X)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Apotex Inc. comments concerning the Public Workshop Follow-On Biologics: Impact of Recent Legislative and Regulatory Naming Proposals on Competition (February 04, 2014)

Apotex Inc. would like to thank the Federal Trade Commission for the opportunity to provide our comments on the *Public Workshop: Follow-On Biologics: Impact of Recent Legislative and Regulatory Naming Proposals on Competition* held on February 04, 2014.

Apotex manufacturers more than 300 generic pharmaceuticals in approximately 4000 dosages. Our products are sold in more than 115 countries around the world. In October 2013, we received marketing authorization approval from the European Commission for Grastofil®, a biosimilar of Neupogen®.

The establishment of a level playing field for the biosimilars market will ensure the benefits for patients and payers that Congress envisioned in passing the Biologics Price Competition and Innovation Act (BPCIA) are fully realized. Accordingly, we applaud the FTC for examining the biosimilar naming and state substitution legislation issues. There are very significant competition issues at stake in both of these spheres of the biosimilar debate that could adversely impact the development of a healthy competitive landscape. The Commission's consideration of these issues will help ensure they are appropriately vetted from this critical perspective.

Please find below Apotex Inc.'s general and workshop specific comments.

Biosimilars and Biologic Products Should Share the Same International Non Proprietary Name

Apotex recommends the use of the same International Non Proprietary Name (INN) for biosimilars. Products approved under the BPCIA's 351(k) pathway will have been determined by the Food and Drug Administration (FDA) to have no clinically meaningful differences from the reference product against which they are evaluated. Indeed, the "highly similar" standard that will be applied to biosimilar approvals is the same standard applied to reference products produce after a change in the manufacturing process or facility. Such "highly similar" originator products retain the same INN after the change is made. Use of distinct naming would inject confusion into the market by creating a perception that biosimilar products have clinically meaningful differences from the reference listed drug (RLD). This confusion could give rise to

concerns in the market place with regards to public health, competitive, and commercial issues that will undermine the intent of the BPCIA.

With respect to the contention that pharmacovigilance demands warrant separate names for biosimilars, Apotex would reiterate and associate itself with the position of the Generic Pharmaceutical Association. In the citizen petition it submitted to FDA on the naming issue on September 17, 2013, GPhA notes that:

> Some have asserted that biosimilars sharing an INN with their [Reference PP can or will interefere with successful tracking of specific products leading to safety concerns. However, we are not aware of any evidence of a problem unique to products sharing INNs or even potentially unique to biosimilars alone. Nor do we believe that this will be the case give that (1) no biosimilars are currently marketed in the US, therefore any current problems in the US pharmacovigilance system cannot be attributed to biosimilars, (2) we know of no tracking issues with currently marketed originator products sharing INNs and (3) experience with marketed biosimilars in highly regulated markets outside the US has identified no safety issues resulting from biosimilars sharing INNs, and their use is now sufficiently extensive that even unusual event would be expected to be caught. Thus there is no safety reason to give a unique INN to a biosimilar in the US, especially since the biosimilar will have found, by virtue of its FDA approval, to be highly similar and to not have any clinically meaningful differences from the RPP. [1]

The use of distinct names for biosimilars, on the other hand, would itself give rise to problematic pharmacovigilance issues. As GPhA further explains in the citizen petition, creating an impression that biosimilar products have clinically meaningful difference when that is not that case "would comprise patient safety in that (1) clinical confusion may lead to prescribing errors, (2) access could be compromised and patients go untreated and/or (3) safety data for these molecules would be disaggregated from the current system that allows for pooling of data, ensuring rapid identification and communication of class effects and lower frequency signals."[2]

Global collaboration among regulatory bodies will also further enhance the pharmacovigilance framework. Earlier this month the FDA and the European Medicines Agency (EMA) established a new 'cluster' on pharmacovigilance topics, which includes issues related to biosimilars. These

[1]FDA Docket FDA-2013-P-1153: http://www.noticeandcomment.com/Generic-Pharmaceutical-Association-Citizen-Petition-fn-65859.aspx, 6

[2] GPhA Pet, 9

regular collaborative meetings will provide a forum for a more systematic and focused exchange of information on the safety of medicines[3].

One additional point to consider is the naming conventions used in an official monograph, wherein products are usually grouped by nonproprietary names. Most compendia treat products as generically as possible, thus allowing multiple products to be handled in a single monograph. If unique product identifiers are to be used, it would be difficult to handle these in the reference books.

We urge policymakers both in the US and globally to avoid the myriad public health and competitive issues that separate names for biosimilars would engender and embrace the time tested method of using INNs to denote the same pharmaceutical substance.

State Legislative Initiatives Regarding Substitution of Interchangeable Bisoimilars

Apotex shares the concern that a number of participants in the workshop expressed regarding the legislative proposals at the state level that would, among other things, require pharmacists to notify physicians when substituting interchangeable biosimilar products. The biosimilars approval statue authorizes the FDA to grant interchangeable status to biosimilars products when the Agency finds such a determination to be warranted. Imposing notification requirements on products determined by the FDA to be interchangeable will undermine public confidence in biosimilar products by facilitating the perception among providers, patients and payers that there is a safety-related reason to question the FDA's interchangeability determination. This will dampen substitution of interchangeable biosimilar products.

The testimony at the workshop of Krystalyn Weaver, Pharm. D., provides a stark view of the impact notification requirements for interchangeable biosimilars will have in the marketplace. Notification will effectively impose a prior authorization system for interchangeable biosimilars; pharmacists will be influenced by financial prudence to secure physician approval of an interchangeable product before the product is dispensed as biologics are not returnable. Creating a perception that there are safety-related reasons to be wary of interchangeable biosimilars will establishes fertile ground for this dynamic.

Apotex would also emphasize that the mechanisms that currently exist for identifying pharmaceuticals, which includes but are not limited to the use of National Drug Codes (NDC), batch and lot numbers, provide a strong framework for ensuring individual products can be identified when necessary. This framework, moreover, will be further enhanced in the years to come by (1) the implementation of the track-and-trace system for pharmaceuticals mandated by the recently enacted Drug Quality and Security Act and (2) the development of an Orange Book like compendia for biosimilars that provides a uniformed publication of approved biologics and their substitutable counterparts.

[3] *See* http://www.drugs.com/news/fda-european-medicines-agency-strengthen-collaboration-pharmacovigilance-area-50484.html

Conclusion

Use of the same INN for biosimilars will facilitate a competitive biosimilars market and avoid public health concerns that separate naming will introduce. Imposing unwarranted notification requirements for interchangeable biosimilars will dampen competition by undermining public confidence in such products. Apotex therefore urges the FTC to support the use of the same INNs for biosimilar and oppose proposals to require notification of physicians when an interchangeable biosimilar is substituted for the reference list product.

Please direct any communications regarding these comments to me via telephone at (416) 401-7976 or email at ykohli@apotex.com.

Sincerely,

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